

Rev. 4/18

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 22-11707

Caption: Eknes-Tucker v. Att'y Gen., State of Ala.	District and Division: <u>Middle District of Alabama, Northern Division</u> Name of Judge: <u>Hon. Liles C. Burke</u> Nature of Suit: <u>Constitutional - State Statute</u> <hr/> Date Complaint Filed: <u>04/19/2022</u> District Court Docket Number: <u>2:22-cv-184-LCB-SRW</u> <hr/> Date Notice of Appeal Filed: <u>5/16/2022</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action <hr/> Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
--	---

Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	See attached.	

For Appellee: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	See attached.
--	----------------------

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input type="checkbox"/> Final Judgment, 28 USC 1291 <input checked="" type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input checked="" type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$ _____ Amount Sought by Defendant: \$ _____ Awarded: \$ _____ to _____ Injunctions: <input type="checkbox"/> TRO <input checked="" type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Granted <input type="checkbox"/> Permanent <input type="checkbox"/> Denied

Page 2

11th Circuit Docket Number: 22-11707

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? ☒ Yes ☐ No
What is the issue you claim is one of First Impression? See attached
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? ☒ Yes ☐ No
If Yes, provide
(a) Case Name/Statute Alabama Vulnerable Child Compassion and Protection Act
(b) Citation Ala. Code §§ 22-12E-1 et seq.
(c) Docket Number if unreported _____
- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
(a) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☒ No
(b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? ☒ Yes ☐ No
If Yes, provide
(a) Case Name Brandt v. Rutledge
(b) Citation _____
(c) Docket Number if unreported No. 21-2875 (8th Cir.) - oral argument set for June 15, 2022
(d) Court or Agency _____
- (4) Will this appeal involve a conflict of law
(a) Within the Eleventh Circuit? ☐ Yes ☒ No
(b) Among circuits? ☐ Yes ☒ No
If Yes, explain briefly:
- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:
See attached.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 23rd DAY OF May, 2022.

Edmund G. LaCour Jr.

NAME OF COUNSEL (Print)

s/ Edmund G. LaCour Jr.

SIGNATURE OF COUNSEL

ATTORNEY LISTING

Defendants-Appellants Kay Ivey, Steve Marshall, Daryl D. Bailey, C. Wilson Baylock, Jessica Ventiere, Tom Anderson, and Danny Carr

Edmund G. LaCour Jr.
Alabama Attorney General's Office
501 Washington Avenue
PO Box 300152
Montgomery, AL 36130
Phone: 334-353-2196
Fax: 334-353-8400
Email: Edmund.LaCour@AlabamaAG.gov

Alexander Barrett Bowdre
Alabama Attorney General's Office
501 Washington Avenue
PO Box 300152
Montgomery, AL 36130
Phone: 334-353-8892
Fax: 334-353-8400
Email: Barrett.Bowdre@AlabamaAG.gov

James W. Davis
Alabama Attorney General's Office
501 Washington Avenue
PO Box 300152
Montgomery, AL 36130
Phone: 334-242-1356
Fax: 334-353-8400
Email: Jim.Davis@AlabamaAG.gov

Christopher E. Mills
Spero Law LLC
557 East Bay Street
Charleston, SC 29413
Phone: 943-606-0640
Email: Cmills@spero.law

Benjamin M. Seiss
Alabama Attorney General's Office
501 Washington Avenue
PO Box 300152
Montgomery, AL 36130
Phone: 334-353-8917
Fax: 334-353-8400
Email: Ben.Seiss@AlabamaAG.gov

Thomas A. Wilson
Alabama Attorney General's Office
501 Washington Avenue
PO Box 300152
Montgomery, AL 36130
Phone: 334-353-8931
Fax: 334-353-8400
Email: Thomas.Wilson@AlabamaAG.gov

**Plaintiffs-Appellees Rev. Paul A. Eknes-Tucker, Brianna Boe, James Zoe,
Megan Poe, Kathy Noe, Jane Moe, and Rachel Koe**

Melody H. Eagan
Lightfoot, Franklin & White, LLC
The Clark Building, 400 20th Street N.
Birmingham, AL 35203
Phone: 205-581-0700
Fax: 205-581-0799
Email: Meagan@lightfootlaw.com

Jeffrey P. Doss
Lightfoot, Franklin & White, LLC
The Clark Building, 400 20th Street N.
Birmingham, AL 35203
Phone: 205-581-0773
Fax: 205-581-0799
Email: Jdoss@lightfootlaw.com

Aime A. Vague
Lightfoot Franklin & White, LLC
400 20th Street North

Birmingham, AL 35203
Phone: 205-581-0700
Fax: 205-581-0799
Email: Avague@lightfootlaw.com

Jennifer L. Levi
GLBTQ Advocates & Defenders
19 Tremont Street, Suite 950
Boston, MA 02108
Phone: 617-426-1350
Fax: 617-426-3594
Email: Jlevi@glad.org

Scott D. McCoy
Southern Poverty Law Center
One Biscayne Tower
2 South Biscayne Boulevard, Suite 3200
Miami, FL 33131
Phone: 334-224-4309
Fax: 850-521-3001
Email: Scott.Mccoy@splcenter.org

Gilbert O. Oladienbo
King & Spalding, LLP
1180 Peachtree Street NE, Suite 1600
Atlanta, GA 30309
Phone: 657-246-9960
Email: Goladeinbo@kslaw.com

Asaf Orr
National Center for Lesbian Rights
870 Market Street, Suite 370
San Francisco, CA 94102
Phone: 415-365-1326
Fax: 415-392-8442
Email: Aorr@nclrights.org

Misty L. Peterson
King & Spalding, LLP
1180 Peachtree Street, Suite 1600

Atlanta, GA 30309
Phone: 404-572-4939
Email: Mpeterson@kslaw.com

James A. Pratt
King & Spalding, LLP
1180 Peachtree Street, Suite 1700
Atlanta, GA 30309
Phone: 404-572-3576
Email: Apratt@kslaw.com

Brent P. Ray
King & Spalding, LLP
110 North Wacker Drive, Suite 3800
Chicago, IL 60606
Phone: 312-764-6925
Fax: 312-995-6330
Bray@kslaw.com

Adam Reinke
King & Spalding, LLP
1180 Peachtree Street
Atlanta, GA 30309
Phone: 404-572-4600
Fax: 404-572-5100
Email: Areinke@kslaw.com

Michael B. Shortnacy
King & Spalding, LLP
633 W 5th Street, Suite 1600
Los Angeles, CA 90071
Phone: 213-443-4344
Email: Mshortnacy@kslaw.com

Diego A. Soto
Southern Poverty Law Center
LGBT Rights & Special Litigation
400 Washington Avenue
Montgomery, AL 36104
Phone: 334-956-8200

Fax: 334-956-8481
Email: Diego.Soto@splcenter.org

Jessica L. Stone
Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
Phone: 404-807-0969
Fax: 334-956-8481
Email: Jstone@splcenter.org

Abigail H. Terry
King & Spalding, LLP
110 North Wacker Drive, Suite 3800
Chicago, IL 60606
Phone: 312-764-6931
Ahoverman@kslaw.com

Cynthia Cheng-Wun Weaver
Human Rights Campaign Foundation
1640 Rhode Island Avenue NW
Washington, DC 20036-3200
Phone: 202-527-3669
Cynthia.Weaver@hrc.org

Sarah Warbelow
Human Rights Campaign Foundation
1640 Rhode Island Avenue, NW
Washington, DC 20036
Phone: 202-628-4160
Fax: 202-347-5323
Email: Sarah.Warbelow@hrc.org

Plaintiff-Intervenor-Appellee United States of America

Barbara Schwabauer
U.S. Department of Justice
Civil Rights Division, Appellate Section
Ben Franklin Station
P.O. Box 14403

Washington, D.C. 20044
Phone: 202-305-3034
Fax: 202-514-8490
Email: Barbara.Schwabauer@usdoj.gov

Bonnie I. Robin-Vergeer
U.S. Department of Justice
Civil Rights Division, Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044
Fax: 202-514-8490
Email: Bonnie.Robin-Vergeer@usdoj.gov

Elizabeth P. Hecker
U.S. Department of Justice
Civil Rights Division, Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044
Phone: 202-616-5550
Fax: 202-514-8490
Email: Elizabeth.Hecker2@usdoj.gov

Jason R. Cheek
U.S. Attorney Office – NDAL
1801 Fourth Avenue North
Birmingham, AL 35203
Phone: 205-244-2104
Fax: 205-244-2171
Email: Jason.Cheek@usdoj.gov

Elizabeth P. F. Escalona
U.S. Attorney's Office – NDAL
1801 Fourth Avenue North
Birmingham, AL 35203
Phone: (205) 244-2001

Alyssa C. Lareau
DOJ-Crt
Civil Rights Division
Poc Dalton, Dennis
1425 New York Avenue
Nya 5066
Washington, DC 20005
Phone: 202-514-6360
Email: Alyssa.Lareau@usdoj.gov

Coty R. Montag
DOJ-Crt
Civil Rights Division
150 M Street NE
4con
Washington, DC 20002
Phone: 202-598-1580
Email: Coty.Montag@usdoj.gov

John M. Powers
DOJ-Crt
Civil Rights Division
950 Pennsylvania Avenue
Washington, DC 20530
Phone: 202-514-1055
Email: John.Powers@usdoj.gov

Sandra J. Stewart
United States Attorney's Office
131 Clayton Street
Montgomery, AL 36104
Phone: 334-551-1705
Fax: 334-223-7135
Email: Sandra.Stewart@usdoj.gov

Kaitlin N. Toyama
Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20530

Phone: 202-353-5311
Email: Kaitlin.Toyama@usdoj.gov

Stephen D. Wadsworth
U.S. Attorney's Office for the Middle District of Alabama
131 Clayton Street
Montgomery, AL 36104
Phone: 334-223-7280
Fax: 334-223-7560
Email: Stephen.Wadsworth@usdoj.gov

Renee M. Williams
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Phone: 202-598-3210
Email: Rene.Williams3@usdoj.gov

Lane H. Woodke
DOJ-USAO
Ndal
United States Attorney's Office
1801 Fourth Avenue North
Birmingham, AL 35203-2101
Phone: 205-244-2001
Email: Lane.Woodke@usdoj.gov

Issues of First Impression

1. Whether the Fourteenth Amendment of the Constitution provides parents a substantive due process right to access puberty blockers and cross-sex hormones for their children for the purpose of gender transition.
2. Whether the Equal Protection Clause prohibits Alabama from banning the administration of puberty blockers and cross-sex hormones to children for the purpose of gender transition.

Issues proposed to be raised on appeal, including jurisdictional challenges.

Based on its explicit factual findings regarding the known harms and uncertain benefits of certain gender transition procedures, the Alabama Legislature enacted a law that, as pertinent here, prohibits the administration of puberty blockers and cross-sex hormones to minors for the purpose of gender transition. Four sets of parents and children, two doctors, and a pastor sued the Alabama Attorney General and five district attorneys seeking a preliminary injunction against enforcement of the law. The United States intervened as a plaintiff and also sought a preliminary injunction. The district court preliminarily enjoined defendants from enforcing the prohibitions against anyone in Alabama, holding that the challenged provisions likely violate a substantive due process right of parents to obtain medical procedures for their children and the equal protection rights of children who were prohibited from receiving the procedures. The issue on appeal is whether the district court erred or otherwise abused its discretion by preliminarily enjoining enforcement of Alabama's law.